

OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

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OPINION 176

On the type of *Conulinus* von Martens, 1895
(Class Gastropoda, Order Stylommatophora)
(*Opinion* supplementary to *Opinion* 86)

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OPINION 176.

ON THE TYPE OF *CONULINUS* VON MARTENS, 1895 (CLASS GASTROPODA, ORDER STYLOMMATOPHORA) (OPINION SUPPLEMENTARY TO OPINION 86).

SUMMARY.—The decision in *Opinion 86* that *Bulimus conulus* Reeve, 1849 (Class Gastropoda, Order Stylommatophora), is the type of *Conulinus* von Martens, 1895, is not affected by the discovery that von Martens' designation of that species as the type in 1897 is antedated by the designation by Woodward in 1896 of *Buliminus (Conulinus) ugandae* von Martens, 1895, since the decision in *Opinion 86* is not dependent upon the action of von Martens in 1897.

I.—THE STATEMENT OF THE CASE.

Opinion 86 of the Commission, published in 1925, stated that "The generic name *Conulinus* von Martens, 1895, takes as type *Buliminus (Conulinus) conulus* Rv., and is not necessarily invalidated by *Conulina* Bronn."

2. The reasons which led the Commission to the conclusion that *B. conulus* Reeve was the type of *Conulinus* von Martens are set out in the latter part of *Opinion 86* under the heading "Discussion."

3. In 1929 Mr. J. R. Le B. Tomlin drew attention to the fact that, contrary to the information submitted to the Commission when the draft of *Opinion 86* was under consideration, the first designation of a type for *Conulinus* von Martens subsequent to the publication of that name in 1895 was the designation in 1896 of *Buliminus (Conulinus) ugandae* von Martens, 1895, in the *Zoological Record* for the year 1895 ([1896], *Zool. Rec.* 32 : Moll. 59) and not the designation of *Bulimus conulus* Reeve, 1849, by von Martens in 1897, as previously supposed. Mr. Tomlin's communication led the Commission to consider whether in the altered circumstances any modification was called for in the decision regarding the type of this genus embodied in *Opinion 86*.

II.—THE SUBSEQUENT HISTORY OF THE CASE.

4. On the receipt of the above communication from Mr. Tomlin, Dr. Stiles, Secretary to the Commission, referred the problem

so raised to Commissioner F. A. Bather, by whom *Opinion* 86 had been drafted. Dr. Bather replied suggesting that "the Commission be asked to re-affirm *Opinion* 86" with the additional fact submitted by Mr. Tomlin before it. Dr. Bather explained at the same time that he considered that no "statement in a report or record or historical narration" ought to be taken "as an original contribution by the reporter, recorder, or historian unless he has clearly indicated his responsibility for it." The full text of Dr. Bather's letter is quoted in *Opinion* 172,¹ which deals with the general question raised by him in regard to the interpretation of Article 30 of the International Code in relation to the designation of the types of genera in abstracts and similar publications.

5. The text of Dr. Bather's letter was communicated to all members of the Commission on its receipt by Dr. Stiles with a request for the comments of Commissioners on Dr. Bather's proposal. In 1932 Dr. Stiles was in a position to report to the Commission that nine of the eighteen Commissioners had expressed themselves as being in agreement with Dr. Bather's proposal. The Commissioners in question were: Apstein, Cabrera, Chapman, Horváth, Ishikawa, Pellegrin, Silvestri, Stephenson and Stone. If to these votes is added that of Dr. Bather himself, there was therefore already a clear majority in the Commission in favour of re-affirming *Opinion* 86. The only reason why an *Opinion* was not at once rendered in that sense was that Dr. Stiles suggested that the grounds proposed by Dr. Bather required further examination and that it might be preferable to deal first with the general question in regard to the interpretation of Article 30. Later Dr. Stiles suggested that the best course might be for the Commission to postpone taking a decision on the points at issue until they had had an opportunity of discussing the whole matter at their meeting due to be held in Lisbon in September 1935.

III.—THE CONCLUSION REACHED BY THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE.

6. At their meeting held at Lisbon on Tuesday, 17th September 1935, the Commission considered both the general question of the availability under Article 30 of the International Code of type designations in Abstracts, Records, and similar publications and

¹ See p. 474 above.

also the effect, if any, of a decision on this question on the decision in regard to the type of the genus *Conulinus* von Martens, 1895, embodied in *Opinion* 86. The decision on the first of these questions (Lisbon Session, 4th Meeting, Conclusion 9 (a) and (b)), which has since been embodied in *Opinion* 172,² was to the effect that, where the type of a genus is clearly designated in an Abstract, Record or similar publication, that designation must be accepted as being within the scope of Article 30 of the International Code, in cases where the generic name in question was published on, or before, 31st December 1930.

7. Having reached this decision on the main problem involved, the Commission turned to consider the position arising therefrom as regards the generic name *Conulinus* von Martens, 1895. In the course of the ensuing discussion, attention was drawn to the following considerations:—

- (a) For the reasons explained in the petition on which *Opinion* 86 was founded, serious confusion would have arisen if the Commission had not then (1925) secured that *Bulimus conulus* Reeve should be the type of *Conulinus* von Martens.
- (b) The Commission had not found it necessary on that occasion to use their plenary powers to secure this end, since they were satisfied that for other reasons that species was already the type of *Conulinus* von Martens under the provisions of the International Code.
- (c) Ten years had elapsed since the publication of *Opinion* 86. A change in the type of this genus now would cause still greater confusion, partly because of the additional period that had elapsed during which *Bulimus conulus* Reeve had been accepted as its type and partly because during that period the acceptance of that species as the type of *Conulinus* von Martens had been expressly enjoined by *Opinion* 86.
- (d) The preliminary vote taken in 1931–1932 had shown in the clearest possible fashion (10 votes in favour; none against) that the Commission were firmly of the view that the decision in *Opinion* 86 should be re-affirmed, notwithstanding the additional facts reported by Mr. Tomlin in 1929 (see paragraph 3 of the present *Opinion*).
- (e) In view of (c) and (d) above, the correct course for the Commission to take at the present (Lisbon) meeting was to secure that *Bulimus conulus* Reeve, 1849, remained the type of *Conulinus* von Martens, 1895. The only question for consideration was whether it would be necessary to make use of the Commission's plenary powers to secure this end.
- (f) No explanation had been given by the Commission in the "summary" of *Opinion* 86 regarding the grounds on which it had then been decided that the above species was the type of *Conulinus* von Martens under the provisions of the International Code; but in the discussion of this case in the body of that *Opinion* reference had been made to the action of von Martens in 1897 in designating *B. conulus* Reeve as the type of *Conulinus* von Martens not as the factor determining the designation of that species as the type of that genus, but as a factor confirming the conclusion that the type was this species.

² See pp. 471–482 above.

The main grounds given in the "discussion" were set out (in paragraph (3)) as follows:—

- (3) If attention be confined for the moment to this paper (1895), anyone selecting a genotype would fix on *B. conulus* Reeve for two reasons:—
- (a) As the common species, reference to which is dragged in by the author with the obvious purpose of explaining his new subgenus;
 - (b) As being the trivial name on which the subgeneric name is, without any doubt, based.
- (g) The point made in paragraph (3) of the "discussion" in *Opinion* 86 (quoted above) would have been brought out more clearly if the Commission had said: "In erecting his new subgenus, von Martens not only went out of his way to insert a reference to the common species, *B. conulus* Reeve, but also deliberately selected for that subgenus a name derived, without any doubt, from the trivial name of that species. Through the tautonymy so created, von Martens indicated that he regarded *C. conulus* Reeve as the type of the subgenus *Conulinus* von Martens."

8. In the light of this discussion, the Commission reached the conclusion first that the proper course in the circumstances was to re-affirm *Opinion* 86 and second that there was no need to make use of their plenary powers for this purpose. The Commission agreed, however, that they would use those powers for this purpose, if that course were necessary. They accordingly agreed (Lisbon Session, 4th Meeting, Conclusion 9)³:—

- (b) to re-affirm (if necessary, under their plenary powers) that, as stated in *Opinion* 86, *Bulimus conulus* Reeve, 1849, is the type of *Conulinus* von Martens, 1895 (Mollusca);
- (c) to render *Opinions* in the sense indicated in (a) to (c) above.

9. Later in the same meeting as that referred to above (Lisbon Session, 4th Meeting, Conclusion 17), Commissioner Francis Hemming, who, in the absence through ill-health of Dr. C. W. Stiles, Secretary to the Commission, had been charged with the duty of preparing the report to be submitted by the Commission to the Twelfth International Congress of Zoology, reported that, in accordance with the request made by the Commission on the previous day (Lisbon Session, 3rd Meeting, Conclusion 3(b)), he had made a start with the drafting of the Commission's report; that he had made considerable progress in spite of being hampered by the lack of standard works of reference; and that he did not doubt that he would be in a position to lay a draft report before the Commission at their next meeting, though in the time available it would be quite impracticable to prepare the drafts of paragraphs relating to all the matters on which decisions had been reached

³ Only those portions of Conclusion 9 which relate to the present case are here quoted. For the full text of Conclusion 9, see 1943, *Bull. zool. Nomencl.* 1: 36.

during the Lisbon Session of the Commission. As agreed upon at the meeting referred to above (Lisbon Session, 3rd Meeting, Conclusion 3(a)(iii)), he was therefore concentrating upon those matters that appeared to be the more important. Commissioner Hemming proposed that those matters which it was found impossible to include in the report, owing to the shortness of the time available, should be dealt with after the Congress on the basis of the records in the *Official Record of the Proceedings of the Commission* during their Lisbon Session. For this purpose, Commissioner Hemming proposed that all matters unanimously agreed upon during the Lisbon Session should be treated in the same manner, whether or not it was found possible to include references to them in the report to be submitted to the Congress, and therefore that every such decision should be treated as having been participated in by all the Commissioners and Alternates present at Lisbon. The Commission took note of, and approved, the statement by Commissioner Hemming, and adopted the proposals submitted by him, as recorded above, in regard both to the selection of items to be included in their report to the Twelfth International Congress of Zoology and to the procedure to be adopted after the Congress in regard to those matters with which, for the reasons explained, it was found impossible to deal in the report.

10. The question dealt with in the present *Opinion* was one of the matters to which it was found impossible, in the time available, to include a reference in the report submitted by the Commission to the Twelfth International Congress of Zoology at Lisbon. It is therefore one of the matters which falls to be dealt with under the procedure agreed upon by the Commission as set out in paragraph 9 above.

11. The present *Opinion* was concurred in by the twelve (12) Commissioners and Alternates present at the Lisbon Session of the International Commission, namely :—

Commissioners :—Calman; Hemming; Jordan; Pellegrin; Peters; and Stejneger.
 Alternates :—do Amaral *vice* Cabrera; Ohshima *vice* Esaki; Bradley *vice* Stone; Beier *vice* Handlirsch; Arndt *vice* Richter; and Mortensen *vice* Apstein.

12. The present *Opinion* was dissented from by no Commissioner or Alternate present at the Lisbon Session.

13. The following five (5) Commissioners, who were not present

at Lisbon nor represented thereat by Alternates, did not vote on the present *Opinion* :—

Bolivar y Pieltain; Chapman; Fantham; Silvestri; and Stiles.

14. At the time when the vote was taken on the present *Opinion*, there was one (1) vacancy in the Commission consequent up on the death of Commissioner Horváth.

IV.—AUTHORITY FOR THE ISSUE OF THE PRESENT *OPINION*.

WHEREAS the By-Laws of the International Commission on Zoological Nomenclature provide that, except in cases involving the suspension of the rules, an *Opinion* is to be deemed to have been adopted by the said International Commission as soon as a majority of the Members of the Commission, that is to say ten (10) Members of the said Commission, have recorded their votes in favour thereof, provided that, where any proposed *Opinion* involves a reversal of any former *Opinion* rendered by the Commission, such proposed *Opinion* shall obtain the concurrence of at least fourteen (14) Members of the Commission voting on the same before such *Opinion* is to be deemed to have been adopted by the Commission; and

WHEREAS the International Commission consider that the suspension of the rules is not required in order to give valid force to the provisions of the present *Opinion*, as set out in the summary thereof, but have nevertheless signified that, if such action was requisite, they would be willing to use the said powers for the purposes aforesaid; and

WHEREAS the present *Opinion*, as set out in the summary thereof, does not involve the reversal of any former *Opinion* rendered by the Commission; and

WHEREAS twelve (12) Members of the Commission have signified their concurrence in the present *Opinion* either in person or through Alternates at the Session of the Commission held at Lisbon in September 1935;

NOW, THEREFORE,

I, FRANCIS HEMMING, Secretary to the International Commission on Zoological Nomenclature, acting in virtue of all and every the powers conferred upon me in that behalf by reason of

holding the said Office of Secretary to the International Commission, hereby announce the said *Opinion* on behalf of the International Commission, acting for the International Congress of Zoology, and direct that it be rendered and printed as *Opinion* Number One Hundred and Seventy Six (*Opinion* 176) of the said Commission.

In faith whereof I, the undersigned FRANCIS HEMMING, Secretary to the International Commission on Zoological Nomenclature, have signed the present *Opinion*.

DONE in London, this twenty-eighth day of October, Nineteen Hundred and Forty Three, in a single copy, which shall remain deposited in the archives of the International Commission on Zoological Nomenclature.

*Secretary to the International Commission
on Zoological Nomenclature.*

FRANCIS HEMMING